



Case Summary
The Baucau Court of First Instance
October 2023

Statement: The following case summaries set out the facts and the proceedings of cases before the court based on JSMP's independent monitoring, and the testimony given by the parties before the court. This information does not reflect the opinions of JSMP as an institution.

JSMP strongly condemns all forms of violence, especially against women and vulnerable persons. JSMP maintains that there is no justification for violence against women.

A. Summary of the trial process at the Baucau Court of First Instance

1. Total number of cases monitored by JSMP: 13

Articles	Case Type	Total Number
Article 145 of the Penal Code (PC) and Articles 2, 3, 35 (b) and 36 of the Law Against Domestic Violence (LADV)	Simple offences against physical integrity characterized as domestic violence (Article 2 on the concept of domestic violence, Article 3 on family relationships, Article 35 on different types of domestic violence (DV) and Article 36 on domestic violence as a public crime)	7
Article 145 (PC) and Article 20 (1), Article 2 (2 f) of the Law on Bladed Weapons	Simple offences against physical integrity and use of a bladed weapon	1
Article 145 of the Penal Code (PC)	Simple offences against physical integrity	1
Article 145 of the Penal Code (PC) and Article 258 of the Penal Code (PC)	Simple offences against physical integrity and property damage	1
Article 207 (PC)	Driving without a licence	1
Article 148 and Article 207 of the PC	Negligent offences against physical integrity, and driving without a license	1



Article 217 (1) of the Penal Code (PC) and Article 24 of Law No. 14/2017 and Article 30, Article 31 of Decree-Law 6/2020	Crimes against flora and fauna	1
		13

2. Total decisions monitored by JSMP: 10

Type of decision	Article	Total Number
Suspension of execution of a prison sentence	Article 68 of the PC	1
Fine	Article 67 of the PC	8
Suspension of execution of a prison sentence and endorsement of withdraw of complaint	Article 68 of the PC	1
Total		10

3. Total cases adjourned based on JSMP monitoring: 0

4. Total ongoing cases based on JSMP monitoring: 3

B. Short description of the trial proceedings and decisions in these cases

1. Simple offences against physical integrity and use of a bladed weapon

Case Number : 0034/20.LASIC
Composition of the Court : Panel
Judges : Maria Modesta d. A. Viera and José António d. Escurial and Sribuana da Costa
Prosecutor : Bartolomeu de Araújo
Defence : Albino de Jesus Pereira
Decision : 3 years in prison, suspended for 3 years

On 3 October 2023 the Baucau Court of First Instance Court announced its decision in a case of simple offences against physical integrity and use of a bladed weapon involving the defendant Lucas Marques da Silva and the victim Godinho da Costa and the State of Timor-Leste, in Fuluro Village, Lospalos Administrative Post, Lautem Municipality.

Charges of the Prosecutor



The public prosecutor alleged that on 13 May 2020, at 11:30 am, in Motolori, Fuiluro Village, the victim's friend named Domingos de Asis asked the defendant if his name was "Lakama Lai" and if he was the tough guy in Lore, and then they had a fight. Domingos de Asis struck the defendant in the mouth, and therefore the victim got up to separate them, and the defendant took out a knife that was in a bag and stabbed the victim Godinho da Costa in his hand and caused an injury. As a consequence of the defendant's conduct, the victim stayed in Lospalos hospital for intensive treatment for four days and then he went home to continue receiving treatment at home for two weeks of recovery.

The prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Article 20.1, 2, (2h) of the Law on Bladed Weapons.

Process of attempted conciliation

Before continuing with the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the court attempted conciliation between the defendant and the family of the victim in relation to the crime of simple offences against physical integrity against the victim, because this case was classified as a semi-public crime, and a crime on complaint.

During this attempted conciliation, the family of victim wanted to withdraw the complaint against the defendant. Based on the agreement of the two parties, the court endorsed the withdrawal of complaint. Meanwhile, for the crime of using a bladed weapon, the court proceeded to trial.

Examination of evidence

During the trial, the defendant stated that the facts set out in the indictment were all true, and the defendant also stated that Domingos punched the defendant in the mouth. When the victim went to separate them, the defendant took out a knife from a bag and stabbed the victim Godinho. At that time the defendant was returning from Lore to Soru, and the problem occurred. The defendant was carrying a knife because he was walking through the forest and if he saw anything to eat he could cut it down, and the defendant stated that he lives in the mountains and he always carries a knife or a machete to carry out his work. The defendant also stated that after stabbing the victim Godinho, he went straight to the police station to make a statement and he immediately gave the knife to the police. The defendant and the victims have reconciled.

Final Recommendations

The prosecutor stated that during the examination of evidence the defendant confessed all of the facts, and the defendant's conduct fulfilled the crime of using a bladed weapon, therefore the prosecutor requested for the court to impose a minimum penalty on the defendant with the same period of suspension.



The defence stated that normally in the mountains the defendant carried a knife to carry out his work, and this was not the first time he had used a knife. Therefore the defence requested for the court to impose a minimum suspended sentence against the defendant.

Decision

After assessing all of the facts, the court found that the defendant was guilty of using the knife to stab the victim. Based on all of the facts that were proven, the court concluded the matter and sentenced the defendant to 3 years in prison, suspended for 3 years.

2. Crime of negligent offences against physical integrity, and driving without a license

Case Number : 0025/22.VQSTR
Composition of the Court : Single Judge
Judge : José António d. Escurial
Prosecutor : Bartolomeu de Araújo
Defence : Albino de Jesus Pereira
Decision : Fine of US\$ 30.00

On 5 October 2023 the Baucau Court of First Instance conducted a hearing to announce its decision in a case of negligent offences against physical integrity and driving without a licence involving the defendant Afonso Soares and the victim Amortinho da Silva and the State of Timor-Leste, in Makadike Village, Uatulari Administrative Post, Viqueque Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 17 August 2022, at 4pm, the defendant was riding a Honda Beat motorcycle with number plate M.9554 TL, and was returning from a cock fight to his house. When he was travelling through the Belula area the victim who is a minor crossed the road and the defendant was unable to control the speed of the motorcycle and in the end the motorcycle's handlebars struck the victim in the head and caused the victim to fall on to the road. The defendant had been riding a motorcycle since 2008, however he didn't have a driving licence.

As a necessary and direct consequence of the defendant's actions, who was riding a motorcycle without a licence and without care, the victim was struck which caused the victim to suffer serious injuries to his head, cheek, forehead and he suffered bleeding from his ear and the victim spent two weeks in the Dili National Hospital.

The public prosecutor alleged that the defendant committed negligent offences against physical integrity that carries a maximum penalty of three years in prison or a fine as



well as Article 207 of the Penal Code on driving without a licence that carries a maximum penalty of two years in prison or a fine.

Before continuing with the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the court attempted conciliation between the defendant and the family of the victim in relation to the crime of negligent offences against physical integrity against the victim, because this case was classified as a semi-public crime, and a crime on complaint.

During this attempted conciliation, the family of victim wanted to withdraw the complaint against the defendant. Based on the agreement of the two parties, the court endorsed the withdrawal of complaint. Meanwhile, for the crime of driving without a licence, the court proceeded to trial.

Examination of evidence

During the trial the defendant testified that all of the charges were true. He added that he has been riding a motorcycle since 2008 and has sat the test twice, however he hasn't passed it yet.

Final Recommendations

The public prosecutor stated that based on the facts, there was sufficient proof that the defendant was guilty of committing the crime of driving without a licence. Therefore the prosecutor requested for the court to order the defendant to pay a fine of US\$15.00.

The defence highlighted that the defendant confessed to all of the facts in the indictment and the defendant has sat the test on two occasions, however he has not passed the test, and he regretted his actions and was a first time offender. Therefore the defence requested for the court to impose a fine against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant has been riding a motorcycle without a driving licence since 2008.

Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, and was a first time offender, the court concluded this matter and ordered the defendant to pay a fine of US\$ 30.00 to be paid in daily instalments of US\$ 1.00 for 30 days. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine.

3. Crime of simple offences against physical integrity characterized as domestic violence

Case Number : 0007/23. BCQLC



Composition of the Court : Single Judge
Judge : José António d. Escurial
Prosecutor : Bartolomeu de Araújo
Defence : Albino de Jesus Pereira
Decision : Fine of US\$ 30.00

On 5 October 2023 the Baucau Court of First Instance announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AGdS who allegedly committed the offence against his wife in Baucau Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 26 March 2023, at 8pm, the defendant kicked the victim three times on her back, and the defendant took a piece of wood and struck the victim once on her back and this caused the victim to fall to the ground and then he squeezed the victim's throat which caused pain to her throat. Prior to this assault, the defendant and the victim argued because the defendant cut all of their pumpkins that were flowering and as a result the pumpkins died, so the victim spoke about the defendant's actions and then the assault occurred.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3(a) and 35(b) of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant testified that all of the charges were true. The defendant also stated that at that time the defendant cut all of the pumpkins, and for this reason the victim said a lot of things and the assault occurred. The defendant also stated that they have reconciled and he has not hit the victim again.

Also, the victim confirmed all of the facts in the indictment and stated that after this incident the police took the victim for treatment at the Quelekai Health Centre and also took the victim to a shelter and several days later the victim went home and they reconciled and now they are living together as husband and wife.

Final Recommendations

The prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the confirmation of the victim, so the prosecutor requested for the court to impose a fine against the defendant.



The defence requested for the court to decide the matter based on the acts committed by the defendant.

Decision

After evaluating all of the facts, the public prosecutor found that the defendant kicked the victim three times on her back, and the defendant took a piece of wood and struck the victim once on her back and this caused the victim to fall to the ground and then he squeezed the victim's throat which caused pain to her throat.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed, regretted his actions, and was a first time offender, the court concluded this matter and ordered the defendant to pay a fine of US\$ 30.00 to be paid in daily instalments of US\$ 1.00 for 30 days. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine.

4. Crime of simple offences against physical integrity characterized as domestic violence

Case Number : 0008/23.BCQLC
Composition of the Court : Single Judge
Judge : José António d. Escurial
Prosecutor : Bartolomeu de Araújo
Defence : Albino de Jesus Pereira
Decision : Fine of US\$ 30.00

On 5 October 2023 the Baucau Court of First Instance announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CS who allegedly committed the offence against his wife in Baucau Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 14 April 2023 at 10am, the defendant punched the victim once above her right eye, and slapped her three times on her right cheek. Prior to this assault, the defendant and the victim argued because the victim asked the defendant for \$US 3.00, so the assault occurred.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant stated that there was an argument because the victim asked the defendant for money and the defendant became angry and punched the



victim once above her right eye, and slapped the victim three times on her right cheek. They started their family in 2022, and this was the first time that the defendant hit the victim and he regretted his actions.

Also, the victim confirmed all of the facts in the indictment and also stated that after the incident they reconciled and since the incident the defendant has not hit the victim.

Final Recommendations

The prosecutor stated that during the examination of evidence the defendant confessed all of the facts and the victim provided confirmation, so the prosecutor believed that the acts of the defendant fulfilled the elements of the crime of simple offences against physical integrity characterized as domestic violence. They are still living together as husband and wife, and therefore the prosecutor requested for the court to impose a prison sentence of 30 days, suspended for 1 year against the defendant.

The defence requested for the court to decide the matter based on the acts committed by the defendant.

Decision

After evaluating all of the facts, the court found that the defendant punched the victim once above her right eye, and slapped the victim three times on her right cheek.

Consideration was given to the facts that were proven and also the mitigating circumstances, namely that the defendant confessed, has reconciled with the victim, regretted his actions, and this was the first time he committed a crime against the victim. Therefore the court concluded this matter and ordered the defendant to pay a fine of US\$ 30.00 to be paid in daily instalments of US\$ 1.00 for 30 days. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine.

5. Crimes against flora and fauna

Case Number	: 0014/22.LASIC
Composition of the Court	: Single Judge
Judge	: Sribuana da Costa
Prosecutor	: Bartolomeu de Araújo
Defence	: Albino de Jesus Pereira
Decision	: Fine of US\$ 40.00

On 17 October 2023 the Baucau Court of First Instance announced its decision in a case of crimes against flora and fauna involving the defendants Mario Ximenes and Cornelis dos Santos Tilman who allegedly committed the offence against the State of Timor-Leste in Lore Village, Lospalos Administrative Post, Lautem Municipality.



Charges of the Prosecutor

The prosecutor alleged that on 14 June 2022, at 09:00am, a suspect who has not been identified contacted the defendant Mario to purchase his sandalwood which was being sold in Lore.

Then on 15 June 2022, at 4pm, the defendant Mario Ximenes asked assistance from the defendant Cornelis dos Santos Tilman to pick up the sandalwood, therefore the defendant Cornelis rode his Mio Yamaha Xean motorcycle with numberplate E 6000 TIs, to pick up the defendant Mario and the two of them left their home in Pune to go to Lore. At 7pm the defendants arrived in Lore to meet with the unidentified suspect to stack the sandalwood on the road, so the two defendants and the unidentified suspect cleaned up the sandalwood and then weighed it. The weight was fifty (50) kilograms and the defendant Mario purchased it at a price of US\$12.00 per kilogram, totalling US\$600.00. The defendant Mario gave money to the unidentified suspect, and then they all put the sandalwood in four sacks and placed them on the motorcycle and then the two defendants got on the motorcycle and left. When the two defendants arrived at the Chai area they met with Delfin who had a Yamaha Mio motorcycle with numberplate N 9257 TIs and Mateus who had a motorcycle with numberplate O 7627 TIs, and then the defendant Cornelis and the defendant Mario asked Delfin and Mateus to help them transport the sacks of sandalwood because they were too heavy. Delfin transported one sack of sandalwood and Mateus transported one sack, and when they arrived in Lipa Sub-Village, Lore II Village forest rangers conducted a search and immediately seized the goods.

The prosecutor alleged that the defendants violated article 217 of the Penal Code on crimes against flora and fauna that carries a prison sentence of 3 years or a fine and Law No. 14/2017 and Decree-Law No. 6/2020.

Examination of evidence

During the examination of evidence the defendant Mario stated that he received a phone call from an unidentified person to purchase sandalwood, therefore the defendant purchased the sandalwood from the unknown person at a price of US\$12.00 per kilogram and the defendant Mario contacted the defendant Cornelis and the two of them went to pick up the sandalwood. On the way they met with Delfin and Mateus who helped them transport the sandalwood and then on the way they were stopped by forest rangers who conducted a search and seized the sandalwood. Previously the defendant also sold sandalwood to a company from Dili at US\$17.00 per kilogram. The defendant Cornelis stated that the defendant Mario contacted him to transport the sandalwood, however he didn't know the person who had sold the sandalwood to the defendant Mario.

The witness Mateus Pinto testified that he and his brother Mateus are fishermen, and they went to look at the ocean and put their nets in the ocean and when they got back on shore



they met with the defendants and they asked for help to transport the aforementioned goods so the witnesses transported the goods, and on the way the police and forest rangers stopped them and conducted a search and found the sandalwood, however the witnesses did not know that they were transporting sandalwood.

The witness Modesto Sarmiento is a forest ranger in Lore II Village and he received a phone call from a friend telling him that a new person had entered Lore II Village and was suspected of taking sandalwood. The witness together with three other forest rangers waited on the road and searched the defendants and found the sandalwood in the sacks belonging to the defendants.

Final Recommendations

The prosecutor stated that during the examination of evidence the defendant Mario confessed to the charges against him, and the defendant Cornelis was contacted by the defendant Mario to help him transport the goods. They regretted their actions. Previously in 2014 the defendant Mario committed a crime against flora and fauna and was given a suspended sentence. For these reasons the prosecutor requested for the defendants to be given a prison sentence of 1 month suspended for 1 year.

The defence stated that that based on the examination of evidence, the defence agreed with the recommendation of the prosecutor.

Decision

After evaluating all of the facts, the court found that all of the facts were proven, and based on these facts that were proven, and also consideration of the mitigating circumstances, namely the defendant Mario totally confessed, and also collaborated with the court and the defendant Cornelis also totally confessed, the court concluded this matter and ordered the defendants to pay a fine of US\$ 40.00 to be paid in daily instalments of US\$ 50 cents for 80 days. The court also imposed an alternative penalty of 60 days in prison if the defendants do not pay this fine.

6. Crime of driving without a license

Case Number	: 0018/22.VQSTR
Composition of the Court	: Single Judge
Judge	: Maria Modesta d. A. Viera
Prosecutor	: Bartolomeu de Araújo
Defence	: Laura Valente Lay
Decision	: Fine of US\$ 30.00

On 23 October 2023 the Baucau Court of First Instance announced its decision in a case of driving without a licence involving the defendant David Anacleto Franco de Araújo da Silva who allegedly committed the offence against the State of Timor-Leste in Viqueque Municipality.



Charges of the Prosecutor

The prosecutor alleged that on 1 June 2022, at 7pm, the defendant was riding a motorcycle with number plate B.6763.TL from the direction of Olobai towards the Viqueque Market. However when he reached the bridge the defendant immediately took off towards the market, and ignored the traffic signs and then the defendant had a collision and fell on the road, because the defendant was riding the motorcycle while he was intoxicated. For many years the defendant has been riding a motorcycle however he has not had a driving licence and there are no documents for the motorcycle that the defendant was riding. The prosecutor alleged that, as a necessary and direct consequence of the defendant's actions, community members using the public road could have been endangered.

The public prosecutor alleged that the defendant violated Article 207 of the Penal Code on driving without a licence that carries a maximum penalty of between 30 days to 2 years in prison or a fine.

Examination of evidence

During the trial the defendant acknowledged that he was riding a motorcycle without a driving licence, and he was intoxicated and he ignored the traffic signs. The documents for the motorcycle and other documents were all damaged when there were floods in 2019 in Dili. The motorcycle is now at the Viqueque PNTL Police Station.

Final Recommendations

The prosecutor stated that the defendant confessed that he was riding a motorcycle without a driving licence and ignored the traffic signs, therefore the prosecutor believed that the defendant was guilty of committing the crime of driving without a licence. Therefore the prosecutor requested for the court to order the defendant to pay a fine of US\$30.00. If the defendant presents supporting documents relating to the motorcycle, then the motorcycle can be given back to the defendant.

Also, the defence stated that based on the examination of evidence, the defendant confessed that he was riding a motorcycle and ignored the traffic signals and did not have a driving licence. Therefore, the defence requested for the court to apply a minimum fine against the defendant and requested for the court give the motorcycle back to the defendant.

Decision

After evaluating all of the facts, the court found that the defendant was riding a motorcycle without a driving licence.

Based on the facts that were proven and all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, and was a first time offender, the court concluded this matter and ordered the defendant to pay a fine of US\$ 30.00 to be paid



in daily instalments of US 50 cents a day for 60 days. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine. The defendant can get the motorcycle back, but he has to provide supporting documents. The time limit is sixty days, and after that it will go to the State.

7. Crime of simple offences against physical integrity characterized as domestic violence

Case Number : 0174/23.PCCIC
Composition of the Court : Single Judge
Judge : Jose Antonio d. Escurial
Prosecutor : Bartolomeu de Araújo
Defence : Germano Guterres Ramos
Decision : Fine of US\$ 22.50

On 24 October 2023 the Baucau Court of First Instance announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant SFS who allegedly committed the offence against his wife in Baucau Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 26 March 2023, at 4:30 pm, the defendant slapped the victim three times on her left cheek, and used a broom to strike the victim twice on her back, and then pulled her hair and dragged her from inside the house outside and caused the victim to suffer pain to her head and body. The defendant told the victim *“Tell whoever you want. I’m not afraid”*. Prior to this assault, the defendant and the victim argued because the victim asked for money from the defendant to buy things for their child because the victim was due to give birth soon, but the defendant responded by saying *“later on in the afternoon”*. However when it was later on in the afternoon he still didn’t give any money to the victim, and then the assault occurred. Since incident the defendant and the victim have been separated.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant stated that he committed the acts against the victim because he suspected the victim of having a romantic relationship with another man, and the defendant also stated that during this incident he only slapped the victim on the cheek and the defendant did not use a broom to strike the victim and did not pull the victim by her hair. They started their family in 2016. This is the first time the defendant has committed a crime against the victim, he regretted his actions and has reconciled with the victim.



The victim maintained all of the facts in the indictment and stated that she has did not have an affair with another man. The victim also stated that she is the third wife of the defendant. After the incident the victim went to Dili, however the defendant followed the victim and they have reconciled and the defendant has not hit the victim again.

Final Recommendations

The public prosecutor alleged that the defendant committed the crime of simple offences against physical integrity characterized as domestic violence, and even though the defendant partially confessed, the victim confirmed all of the facts in the indictment. The defendant has three wives, and to deter the defendant from committing such acts in the future, the prosecutor requested to the court to impose a prison sentence of three months against the defendant, suspended for one year.

The defence stated that the defendant only made a statement about the actions that he committed, he regretted his actions, has reconciled with the victim and was a first time offender, and the defendant is the only breadwinner for the family, including the defendant's first wife and second wife.

Decision

After evaluating all of the facts, the court found that the defendant slapped the victim three times on her left cheek and he took a broom and struck her twice on her back and pulled her hair.

Based on the facts that were proven, and with consideration of the mitigating circumstances, namely the defendant was a first time offender, has reconciled with the victim, and regretted his actions, therefore the court concluded this matter and ordered the defendant to pay a fine of US\$22.50 to be paid in instalments of US 50 cents per day for 45 days. The court also imposed an alternative penalty of 30 days in prison if the defendant does not pay this fine.

8. Crime of simple offences against physical integrity characterized as domestic violence

Case Number : 0011/23.BCQLC
Composition of the Court : Single Judge
Judge : José António d. Escurial
Prosecutor : Remizia de Fatima
Defence : Antonio Fernandes
Decision : Fine of US\$ 30.00

On 24 October 2023 the Baucau Court of First Instance announced its decision in a case of simple offences against physical integrity characterised as domestic violence



involving the defendant JF who allegedly committed the offence against his wife in Baucau Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 1 May 2021, at 12.00 pm, the defendant slapped the victim once on her right cheek and slapped the victim once on her left cheek. Prior to this assault, the defendant and the victim argued when the defendant came home from work, and he was hungry, but there was no food, and a neighbour gave rice and vegetables for the defendant to eat.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial, the defendant confessed to all of the facts in the indictment and stated that after the incident he reconciled with the victim, regretted his actions, and started a family in 1990 and this was the first time he had assaulted the victim.

In addition, the victim reinforced the facts set out in the indictment and stated that after this incident they reconciled and until now the defendant has not beaten her again.

Final Recommendations

The public prosecutor stated that the charges of the prosecution were proven because the defendant was guilty of committing the alleged crime, and they have been living together for nearly thirty years, and this was the first time the defendant committed a crime against the victim. Therefore the prosecutor requested for the court to impose a fair penalty against the defendant.

The defence stated that the defendant confessed, regretted his actions and they have been living together for a long time, and this was the first time the defendant committed a crime against the victim, therefore the defence requested for the court to apply a fair sentence against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant slapped the victim once on her right cheek and one on her left cheek.

Based on the facts that were proven and also considering the mitigating circumstances namely that the defendant confessed, and regretted his actions, therefore the court concluded this matter and imposed a fine of US\$30.00, to be paid in daily instalments of US\$1.00 cents for 30 days. If the defendant does not pay this fine, the defendant will spend 20 days in prison as an alternative punishment.



9. Crime of simple offences against physical integrity characterized as domestic violence

Case Number : 0046/22.VQVQQ
Composition of the Court : Single Judge
Judge : Maria Modesta d. A. Viera
Prosecutor : Bartolomeo de Araújo
Defence : Grigório Maria Lourdes de Lima
Decision : Fine of US\$ 45.00

On 19 October 2023 the Baucau Court of First Instance announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JFG who allegedly committed the offence against his wife in Viqueque Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 26 September 2022, at 8.00am, the defendant slapped the victim above her left eye three times and punched the victim once on her arm and then took a branch and struck the victim twice on her right arm.

The prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3, 35(b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant stated that all of the charges were true. After the incident they reconciled, and the defendant regretted his behaviour, and was a first-time offender.

Also the victim confirmed all of the facts in the indictment and stated that after incident the victim made a complaint to the police and she received treatment at a health centre and stayed there for one night. The defendant and the victim have reconciled and the defendant has not hit the victim again.

Final Recommendations

The public prosecutor stated that during the examination of evidence the defendant confessed and the victim confirmed all of the facts in the indictment. The victim was seven months pregnant and was holding a mobile phone so she could contact her parents and she also told the defendant about her pregnancy. The defendant's conduct fulfilled the elements of the crime of simple offences against physical integrity characterized as domestic violence. For these reasons the prosecutor requested for the court to impose a suspended prison sentence against the defendant.



The defence requested for the court to impose a fair penalty against the defendant because the defendant confessed, regretted his actions and was a first time offender.

Decision

After evaluating all of the facts, the court found that the defendant slapped the victim three times above her left eye, punched her once on her arm, and took a branch and struck her twice on her right arm.

Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed, has reconciled with the victim, regretted his actions, and was a first time offender, the court concluded this matter and ordered the defendant to pay a fine of US\$ 45.00 to be paid in daily instalments of US\$ 50 cents for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine.

10. Crime of simple offences against physical integrity characterized as domestic violence

Case Number	: 0106/23.BCBCV
Composition of the Court	: Single Judge
Judge	: Maria Modesta d. A. Viera
Prosecutor	: Bartolomeo de Araújo
Defence	: Grigório Maria Lourdes de Lima
Decision	: Fine of US\$ 22.50

On 25 October 2023 the Baucau Court of First Instance announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FG who allegedly committed the offence against her husband in Baucau Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 8 June 2020, at 12:00 pm, the victim was returning from the market where he bought some rope and the defendant asked about the rope and the victim said it was to tie up their goat, and the defendant said *“You don’t have any goats, you don’t have any pigs and you don’t have a house”* and she swore at the victim. The defendant punched the victim once in the head, punched the victim once on his left shoulder and the victim ran outside from the house and the defendant followed him and threw two rocks at him and struck him on the left arm and struck him on the left side of the head. The victim received treatment in hospital and only recovered after one week. After the incident they have been living separately and the victim went to live in Quelikai.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three



years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

Examination of evidence

During the trial the defendant stated that all of the facts in the indictment were true and it was also true that she swore at the victim, however she did not chase the victim from the house, she regretted her actions, was a first time offender after since the incident they have not yet reconciled however the defendant considers the victim to still be her husband even though they are living separately and she is ready to accept the victim as her husband.

The victim confirmed all of the facts in the indictment and stated that since the incident the victim has been living separately in Quelikai and the victim is ready to go back to his wife and continue living together as husband and wife.

Final Recommendations

The public prosecutor stated that during the examination of evidence the defendant completely confessed to all of the facts in the indictment, and the victim maintained all of the facts in the indictment, so it was proven that the defendant committed the alleged crime, and in order to deter the defendant from committing such acts in the future, the prosecutor requested for the court to impose a minimum suspended sentence against the defendant for this crime.

The defence stated that during the examination of evidence the defendant confessed or collaborated with the court and did not make it difficult for the court to find out the truth in this case, and she regretted his actions, and was a first time offender. Therefore the defence requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant punched the victim once in the head, punched the victim once on his left shoulder and the victim ran outside from the house and the defendant followed him and threw two rocks at him and struck him on the left arm and struck him on the left side of the head.

Based on the facts that were proven and consideration of all of the mitigating circumstances, namely that the defendant confessed, regretted his actions, and was a first time offender, the court concluded this matter and ordered the defendant to pay a fine of US\$ 22.50 to be paid in daily instalments of US\$ 50 cents for 45 days. The court also imposed an alternative penalty of 30 days in prison if the defendant does not pay this fine.

For more information, please contact:

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